IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 194 of 1989
In SPECIAL CIVIL APPLICATION No. 1950 of 1989
With
CIVIL APPLICATION No. 1159 of 1989

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT
HONOURABLE MS.JUSTICE H.N.DEVANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHANGI SHANKERBHAI JIVABHAI - Appellant(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR MANOJ N POPAT for Appellant(s) : 1,
MR UDAY BHATT, AGO for Respondent(s) : 1, 3,
MR SV KOPPAR for Respondent(s) : 2,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

and

HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 30/08/2006

ORAL JUDGMENT

(Per : HONOURABLE MS. JUSTICE R.M.DOSHIT)

This Appeal preferred under clause 15 of the Letters Patent challenges the order dated 20th March, 1989 made by the learned Single Judge in above Special Civil Application No.1950 of 1989.

By order dated 25th July, 1986 made by the District Medical Officer, the appellant was appointed as a part-time Sweeper for a period of 29 days at Government Dispensary, Kharva. The said arrangement continued upto 31st December, 1988. Effective from 1st January, 1989 the appellant was not continued in service. Feeling aggrieved, the appellant preferred the above Special Civil Application under Article 226 of the Constitution of India and prayed for a direction to the respondent – District Panchayat to reinstate the appellant in service and to pay the back-wages. The said petition was summarily rejected by the learned Single Judge in the following terms:

> **"The question raised in this petition can properly be gone into by the Labour Court and**

therefore this petition is rejected."

In answer to the notice issued by this Court, the respondent – District Panchayat has contested the Appeal and has filed the counter-affidavit. According to the District Health Officer, at the end of the year 1988 the requirement of the Government Dispensary at Kharva was reviewed. It was found that the Government Dispensary required one part-time Sweeper whereas there were two part-time Sweepers engaged at the said Government Dispensary. The appellant being junior amongst the two, his service was not continued as part-time Sweeper.

The appellant has claimed right to employment on the strength of the above referred order dated 25th July, 1986 made by the District Medical Officer. By the said order the appellant was appointed as a part-time Sweeper on daily wages temporarily for a period of 29 days. Though the said arrangement was continued until December, 1988, no right to employment accrued to the appellant.

On the fact situation stated in the counter-affidavit, no order for reinstatement of the appellant or for back-wages can be made.

The Appeal is dismissed. Civil Application stands disposed of.

(Ms. R.M.Doshit, J.) **(Harsha Devani, J.)**

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